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No. 83-1675

IN THE

Supreme Court of the United States

OCTOBER TERM 1983

RICHARD BEGG,

Petitioner,

v.

BOARD OF FIRE AND POLICE COMMISSIONERS OF THE CITY OF PARK RIDGE and the CITY OF PARK RIDGE, ILLINOIS, a municipal corporation,

Respondents.

RESPONSE TO PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS

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RESPONSE TO PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS

STATEMENT OF THE CASE

In 1977, the Park Ridge Police Department issued an Order, No. 77-014, establishing "Traffic Enforcement Standards" for all patrol officers. The Order cites the high number of motor vehicle accidents in the City of Park Ridge, the resulting financial loss and human suffering and finds that a strong police traffic enforcement program is necessary to control accidents and injuries. In order to implement such an enforce-

ment program, the Order establishes standards for patrol officers. Based on an expectation that an officer will observe at least one traffic violation during each tour of duty, the officer is expected to issue an average of 0.8 traffic tickets per day over a 90-day period. An officer's activity as measured against this standard is one factor considered in his overall performance evaluation.

Richard Begg was a veteran police officer of the City of Park Ridge, having 18 years on the job at the time this action arose. He has since retired from the Department. For some time prior to the present charges being placed against Begg, he had been warned by his superiors that his job performance on all measures was below acceptable levels. In April 1980, he was given a written order from the Director of Public Safety to bring his activity up to specified levels during the succeeding quarter or disciplinary measures would be taken. He failed to comply and was suspended for three days by the Director of Public Safety. Pursuant to state statute, he demanded and received a hearing before the Board of Fire and Police Commissioners of the City of Park Ridge.

At the hearing, the Department supervisors testified to the basis for, and operation of, the traffic enforcement standards and performance appraisal system. Evidence was presented that Begg had failed to meet the required standards. Begg's witnesses, all his fellow officers, testified that in their opinion the Department's traffic enforcement standards constituted a "quota system." No evidence was offered by Begg contradicting his failure to meet the enforcement standards. Rather, Begg testified that he preferred to handle traffic violations by way of verbal warnings and that he engaged in other activities which were not reflected in the Department's performance appraisal process. The Board of Fire and Police Commissioners found that the manifest weight of the evidence supported the disciplinary action. The Board's Order appears in the Appendix hereto.

Pursuant to state statute, Begg filed a Complaint to review the Board's action in the Circuit Court of Cook County. A copy of the Complaint and Brief in support thereof appear in the Appendix hereto. The Circuit Court, without explanation, held that Begg "was suspended on the base of a traffic quota system which is against public policy," and reversed the decision of the Board of Fire and Police Commissioners.

The City appealed to the Appellate Court of Illinois, which reversed the Circuit Court and affirmed the decision of the Board of Fire and Police Commissioners. Contrary to the assertion in the Petitioner's Statement Of The Case in the Petition For Writ Of Certiorari, neither the majority nor the concurring opinion of the Appellate Court held that traffic quotas violate the 14th Amendment. Begg sought and was granted Leave To Appeal to the Illinois Supreme Court.

The Supreme Court of Illinois unanimously affirmed the judgment of the Court of Appeals and the Board of Fire and Police Commissioners. Begg now seeks to have this ruling reviewed by this Court. The City believes that review by this Court should not be granted.

ARGUMENT

I.

THE PETITIONER HAS FAILED TO SHOW THAT A FEDERAL QUESTION WAS PRESENTED TO OR DECIDED BY THE ILLINOIS SUPREME COURT.

The Question Presented For Review in this case is the product of Petitioner's imagination. It is not the issue which was presented to or decided by the Illinois Supreme Court. Moreover, Petitioner has failed to show that the state court decision is based any federal question.

The decision of the Illinois Supreme Court dealt only with the sufficiency of Petitioner's evidence at the administrative hearing. The Court held that Petitioner failed to rebut the City's evidence that the administrative regulation is reasonable. This Court has repeatedly held that it does not have jurisdiction to review the determination of a federal question unless it was presented to and relied upon the Court below. *Crowell* v. *Randell,* 35 U.S. (10 Pet.) 368 (1836). This Court has "consistently refused to decide federal constitutional issues raised here for the first time on review of state court decisions." *Cardinale* v. *Louisiana,* 394 U.S. 437 (1969).

The party seeking review by this Court has the burden of proving that the federal question was presented to the state court. Where, as in this case, the highest state court has failed to pass upon the federal question and gives no indication that it was ever asked to consider any federal question, it will be assumed that the omission results from a failure to present the question properly in the state court, unless the Petitioner affirmatively shows that the question was presented. *Street* v. *State of New York,* 394 U.S. 576 (1969); *Fuller* v. *State of Oregon,* 417 U.S. 40 (1974).

In his Petition For Writ Of Certiorari, the Petitioner blithely asserts that the federal question was raised in the administrative hearing, in the Complaint For Administrative Review before the Cook County Circuit Court, in the Appellate Court of Illinois, and the Illinois Supreme Court. (Petition, p.5). This assertion fails to comply with the requirements of Supreme Court Rule 21.1(h), that Petitioner set forth "specific reference to the places in the record where the matter appears." In fact, "the matter" does not appear in the record. Respondents invite this Court's attention to the Order of the Board, to Petitioner's Complaint in the Circuit Court, and to the opinions of the three state courts which have considered this case. Nowhere in any of these documents is the issue raised or decided which is now stated by Petitioner as the Question Presented For Review. Only in the concurring opinion of the Illinois Appellate Court is passing, and hypothetical, reference made to "innocent people" in the context of an argument for a different standard of review than the one applied by the majority. Not even in the decision of the Circuit Court, in which Petitioner prevailed, was any mention made of "due process," "innocent motorists," or "probable cause," which Petitioner now presents as the federal question to be reviewed by this Court. In his pleadings in the state courts, Petitioner has always based his challenge to the regulation on "public policy" grounds. Now he seeks to reformulate that challenge, to base it on due process grounds. Clearly, while due process issues may enter into public policy considerations, the two doctrines are not synonymous, co-extensive, nor interchangeable.

The Petition For Writ Of Certiorari is insufficient because it contains no showing whatsoever that the question it seeks to have reviewed was in fact ever presented to or decided by the Illinois Supreme Court. Since the federal question presented to this Court has not been ruled upon by the highest state court which considered the case, this Court has no jurisdiction to review the question.

II.

THE DECISION OF THE ILLINOIS SUPREME COURT RESTS ON AN ADEQUATE STATE GROUND.

This Court will decline to review a state court decision on a Petition For Writ Of Certiorari where an adequate state ground exists for that decision. *Zacchini* v. *Scripps-Howard Broadcasting Company,* 433 U.S. 562 (1967); *Wilson* v. *Loew's, Inc.,* 355 U.S. 597 (1958). In this case, the only basis for the decision of the Illinois Supreme Court was a state ground. Specifically, the Illinois Supreme Court held that as a matter of Illinois law, Petitioner "had the burden of showing that the administrative regulation was arbitrary and unreasonable. He failed to meet that burden." 459 N.E. 2d 925, 929. The Supreme Court found that:

> Appellant did not present any evidence to demonstrate that the traffic index standard was unreasonable. Neither Appellant nor any other officer testified that he was forced to issue more tickets that were justified in order to meet the traffic index standard. None of them testified that the 0.8 standard was an unreasonable or arbitrary standard. . . . [T]here was no conclusive evidence presented to show that the traffic index standard had not reduced the number of accidents. . . . The Appellant failed to show that reliance upon these standards, in evaluating officers, was unreasonable or arbitrary. 459 N.E. 2d 925, 929.

Clearly, the decision of the Illinois Supreme Court was based on its review of the evidentiary record of this case and not on any question of federal law. The Court never had to reach any question of due process or public policy concerning the administrative regulation since it found that Petitioner had failed to allege or prove any facts which would raise those issues.

The Petition For Writ Of Certiorari seeks to introduce new evidence into these proceedings when it discusses at length what purports to be a statute of the State of Pennsylvania. (Petition, p. 10-11). This discussion is completely *dehors* the

record of this case and has no relevancy to the issues here presented.

The Petition For Writ Of Certiorari also asserts that:

> . . . not only are traffic quotas inherently wrong from the standpoint that innocent motorists are subjected to traffic citations without probable cause, but that a police officer [sic] is deprived of the discretion to issue a traffic citation, which discretion is recognized as being vital under Illinois law.) (Citations omitted). (Petition, p. 11).

The opinion of the Illinois Court of Appeals responds to this argument clearly and succinctly.

> Plaintiff's central challenge to the regulations at issue appears to be that they establish an absolute quota to be met by the police officers and that such quota systems are *per se* against public policy. For that proposition, plaintiff cites *People* v. *Patterson* (1980), 88 Ill. App. 3d 144, 410 N.E.2d 223, and *Bodenschatz* v. *State Personnel Board* (1971) 15 Cal. App. 3d 775, 93 Cal. Rptr. 471. But neither of those cases even involved quota systems. In *Patterson,* . . . [t]he court noted that an officer may always issue a warning or reprimand without citing a motorist. We find nothing in that statement of the discretion invested in a police officer to support the proposition that the regulation at issue here is against public policy. Nothing in the record indicates that plaintiff was not free to exercise his discretion in a similar matter in any individual case. In *Bodenschatz,* a police officer was dismissed because his enforcement activity was well below the average for his fellow officers. The officer challenged his dismissal in part because he contended that his level of activity was low only because the police department had a policy of requiring its officers to engage in more enforcement activity that circumstances warranted. The appellate court agreed that such a policy would be improper as contrary to the public interest but noted that the officer had failed to meet his burden of proving that such a policy was in existence. *In this cause there was no evidence to suggest that plaintiff was*

> *being asked to meet standards which were unreasonably high. Nor was there any testimony that other police officers or the plaintiff would have had to issue unjustified citations to meet the standards.* 443 N.E.2d 222, 224. (Emphasis added).

The decision of the state court is expressly based on its determination that Petitioner introduced no evidence to support his theory of the effect of the administrative regulation. Since Petitioner failed to prove that the regulation has the factual effect he claims, he cannot ask this Court to decide whether that effect violates due process considerations.

The question of the standard of review in determining the validity of administrative regulations being one of state law, there was in this case an adequate and independent state ground for the decision irrespective of the constitutional issue that this Court is now urged to review. When a state decision rests on adequate foundation of state substantive law, it is immune from review in the Federal courts. *Wainwright* v. *Sykes,* 433 U.S. 72 (1977); *Herb* v. *Pitcairn,* 324 U.S. 117 (1945); *Murdock* v. *City of Memphis,* 87 U.S. (20 Wall.) 590 (1874).

III.

THE PETITIONER HAS NO STANDING TO RAISE THE QUESTION PRESENTED FOR REVIEW.

The federal question raised in the Petition For Writ Of Certiorari asserts a violation of due process rights of "innocent motorists (subjected to) the issuance of traffic citations without probable cause." As shown above, Petitioner has failed to establish that any such motorists received any such citations. However, assuming *arguendo* that the administrative regulation did have the effect alleged, Petitioner has no standing to assert the constitutional rights of such motorists in challenging his three day suspension for *failing* to issue sufficient citations. The

motorists whose rights are alleged to be violated, if they exist at all, are not parties to this action.

This Court has repeatedly held that "constitutional rights are personal and may not be asserted vicariously." *McGowan* v. *Maryland*, 366 U.S. 420, 429-430 (1961). Constitutional judgments are justified only out of the necessity of adjudicating rights in the particular cases between litigants before the court. *Marbury v. Madison*, 1 Cranch 137, 2 L.Ed. 60 (1803).

> Embedded in the traditional rules governing constitutional adjudication is the principal that a person to whom a statute may constitutionally be applied will not be heard to challenge that statute on the ground that it may conceivably be applied unconstitutionally to others in other situations not before the court. *Broadrick* v. *Oklahoma*, 413 U.S. 601 (1973); Cf. *Parker* v. *Levy*, 417 U.S. 733 (1974).

Only limited exceptions to these principals have been recognized by this Court, such as where individuals not party to a particular suit stand to lose by its outcome and yet have no effective avenue of preserving their rights themselves. *Broadrick* v. *Oklahoma*, 413 U.S. 601, 611 (1973); *Eisenstadt* v. *Baird*, 405 U.S. 438 (1972). Clearly, this exception is not applicable to the present case, as an innocent motorist who is issued a traffic citation without probable cause could avail himself of the established judicial avenues of contesting that citation.

Since the question presented for review by Petitioner in this case assumes facts not in evidence and asserts constitutional rights of persons not party to this litigation, the petition should be denied.

CONCLUSION

Petitioner has failed to carry his burden of showing that he has properly reserved for review the constitutional question he presents. The decision that he asks this Court to review is purely a ruling on the sufficiency of evidence produced at the administrative hearing, which rests entirely on state grounds. Moreover, the federal due process question raised by the Petition For Writ Of Certiorari asserts constitutional rights of third persons not party to this action and is grounded on hypothetical facts not supported by any evidence in the record of this case. Accordingly, Respondents respectfully pray that this Court deny the Petition For Writ Of Certiorari.

Respectfully submitted,

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APPENDIX

STATE OF ILLINOIS }
COUNTY OF COOK } SS.:

BEFORE THE BOARD OF FIRE AND POLICE COMMISSIONERS OF THE CITY OF PARK RIDGE, ILLINOIS

IN THE MATTER OF THE APPEAL OF RICHARD R. BEGG, A POLICE OFFICER OF THE POLICE DEPARTMENT OF THE CITY OF PARK RIDGE, ILLINOIS.

FINDINGS AND DECISION

This matter comes on to be heard by the undersigned Board of Fire and Police Commissioners of the City of Park Ridge, Illinois upon the appeal of Police Officer RICHARD R. BEGG (hereinafter referred to as "Appellant"), from a Suspension Order dated August 15, 1980 by Director of Public Safety, G. JOE MOFFITT (hereinafter referred to as Appellee), wherein said Appellant was suspended for three (3) days without pay for the alleged violation of certain performance standards applicable to patrol officers of the Park Ridge Police Department. A copy of said Suspension Order is incorporated herein by reference. This Board held a public hearing on said appeal on December 8, 1980 pursuant to notice as required by law, and, having heard and reviewed the testimony and other evidence presented at said hearing, and after due deliberation and being fully advised in the premises, FINDS:

1. Appellant was at all times mentioned herein and pertaining hereto a police officer of the Police Department of the City of Park Ridge, Illinois, assigned to duties as a patrol officer.

2. By Suspension Order dated August 15, 1980 Appellant was suspended by Appellee for a period of three (3) days without pay for the alleged violation of Part I of said performance standard relative to traffic arrests ("traffic index") and Part II relative to non-traffic arrests, for the period of April 1, 1980 through June 30, 1980.

3. Within the time permitted by law and in the manner required, Appellant filed an appeal of said suspension with this Board.

4. This Board has jurisdiction of the subject matter of said appeal and the persons of the parties hereto.

5. All notices and other things required to be done prior to delivery and after said hearing have been done.

6. Throughout the hearing, both Appellant and Appellee appeared in person and were represented by legal counsel of their own selection. All witnesses were sworn on, testified under oath, and were subject to cross examination.

7. The manifest weight of the evidence shows by a preponderance that:

A. Contrary to Part I of said Performance Standard, Appellant's "traffic index" for the period April 1, 1980 through June 30, 1980 was .59 traffic arrests per day, whereas Appellee had informed Appellant in writing by instrument dated April 24, 1980 that the minimum acceptable level for such traffic index was .80 traffic arrests per day.

B. Contrary to Part II of said Performance Standard, Appellant's non-traffic performance for the period April 1, 1980 through June 30, 1980 was .97 non-traffic arrests per day, whereas Appellee had informed Appellant in writing by instrument dated April 24, 1980 that the minimum acceptable level for such non-traffic performance was 1.50 non-traffic arrests per day.

C. There was no demonstration by Appellant of any mitigating circumstance sufficient to excuse his performance below said required standards.

8. The aforesaid conduct by Appellant was a violation sufficient to warrant the three (3) day suspension given.

NOW THEREFORE, IT IS HEREBY ORDERED AND DETERMINED that the aforesaid suspension of Police Officer RICHARD R. BEGG for three (3) days without pay for the violations set forth above be and the same is hereby affirmed.

December 29, 1980

/s/ EDWARD A. CRUSE

/s/ RICHARD P. HEFFERAN

/s/ ROBERT E. BERGMANN

being all of the member of the Fire & Police Commissioners of the City of Park Ridge, Ill.

STATE OF ILLINOIS }
COUNTY OF COOK } ss.:

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT—LAW DIVISION

RICHARD R. BEGG,
Plaintiff

-vs-

BOARD OF FIRE AND POLICE COMMISSIONERS OF THE CITY OF PARK RIDGE, EDWARD A. CRUSE, RICHARD P. HEFFERAN, ROBERT E. BERGMANN, and G. JOE MOFFITT, DIRECTOR OF PUBLIC SAFETY FOR THE CITY OF PARK RIDGE, ILLINOIS,
Defendants

NO. 81 L 2184

COMPLAINT FOR ADMINISTRATIVE REVIEW

NOW COMES RICHARD R. BEGG, plaintiff, by STANLEY H. JAKALA, his attorney, complaining of the defendants, BOARD OF FIRE AND POLICE COMMISSIONERS OF THE CITY OF PARK RIDGE, EDWARD A. CRUSE, RICHARD P. HEFFERAN, ROBERT E. BERGMANN, and G. JOE MOFFITT, DIRECTOR OF PUBLIC SAFETY FOR THE CITY OF PARK RIDGE, ILLINOIS, and states as follows:

1. That on April 15, 1980, the plaintiff, RICHARD R. BEGG, had been suspended for a period of three days without pay by Director of Public Safety for the City of Park Ridge, Illinois, G. Joe Moffitt, in that he had violated a certain performance standard of the City of Park Ridge relative to

traffic arrests (traffic index) and non-traffic arrests covering a period from April 1, 1980, through June 30, 1980.

2. That the plaintiff had appealed the three day suspension order without pay as described in paragraph 1 of this complaint for administrative review to the Board of Fire and Police Commissioners of the City of Park Ridge, Illinois.

3. That on December 29, 1980, an administrative decision was rendered by the Board of Fire and Police Commissioners of the City of Park Ridge, Illinois, Edward A. Cruse, Richard P. Hefferan, and Robert E. Bergmann, defendants, affecting the rights of the plaintiff, a copy of the said decision was served on the plaintiff personally on December 29, 1980.

4. That the plaintiff desires a judicial review of the final decision of the administrative agency which decision upheld the three-day suspension without pay of the plaintiff, said suspension order being issued by the Director of Public Safety of the City of Park Ridge, Illinois, G. Joe Moffitt, in connection with the plaintiff allegedly violating a certain performance standard of the City of Park Ridge, Illinois relative to traffic arrests (traffic index) covering the period from April 1, 1980, through June 30, 1980.

5. That judicial review is sought for the reason that the decision is both contrary to law and contrary to the actual facts of the case and specifically a traffic/ticket quota system is against public policy.

6. That the defendant, G. Joe Moffitt, Director of Public Safety of the City of Park Ridge, Illinois, is named as a defendant in that he is an interested party in these proceedings.

7. That the defendants, Board of Fire and Police Commissioners of the City of Park Ridge, Illinois, Edward A. Cruse, Richard P. Hefferan, Robert E. Bergmann, are hereby requested to file the record of proceedings had before them

pertaining to the entry of the aforementioned decision together with whatever evidence, exhibits of other matters that were submitted to the hearing officers on December 8, 1980.

WHEREFORE, PLAINTIFF, RICHARD R. BEGG, RESPECTFULLY PRAYS:

A. That the record sustaining the three-day suspension without pay of the plaintiff by the Director of Public Safety of the City of Park Ridge, Illinois, G. Joe Moffitt, in connection with the plaintiff allegedly violating a certain standard of performance of the City of Park Ridge, Illinois, relative to traffic arrests (traffic index) and non-traffic arrests covering a period from April 1, 1980, through June 30, 1980, had, or considered, by the hearing officers of the Board of Fire and Police Commissioners of the City of Park Ridge, Illinois, be judicially reviewed.

B. That the decision of the Board of Fire and Police Commissioners of the City of Park Ridge, Illinois, be reversed.

C. That the plaintiff be granted such other and further relief as he would be entitled under the law.

_____

Richard R. Begg

STATE OF ILLINOIS }
COUNTY OF COOK } ss.:

RICHARD R. BEGG, after first being duly sworn upon oath, deposes and says he has read the foregoing complaint by him subscribed, knows the contents thereof and that the same is true.

_____

Subscribed and sworn to before me this ____day of _____, 1981.

_____

Notary Public

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STATE OF ILLINOIS }
COUNTY OF COOK } ss.:

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT—LAW DIVISION

RICHARD R. BEGG,

Plaintiff

-vs-

BOARD OF FIRE AND POLICE COMMISSIONERS OF THE CITY OF PARK RIDGE, EDWARD A. CRUSE, RICHARD P. HEFFERMAN, ROBERT E. BERGMANN, and G. JOE MOFFITT, DIRECTOR OF PUBLIC SAFETY FOR THE CITY OF PARK RIDGE, ILLINOIS,

Defendants

NO. 81 L 2184

BRIEF IN SUPPORT OF PLAINTIFF'S COMPLAINT FOR ADMINISTRATIVE REVIEW

STATEMENT OF FACTS

On August 15, 1981, G. Joe Moffitt, Director of Public Safety, City of Park Ridge, Illinois, issued a letter to the plaintiff wherein it was stated that from April 1, 1980 through June 30, 1980, the plaintiff did not write the required daily City of Park Ridge Police Department traffic citations and had not involved himself in the daily required non-traffic arrest situations as demanded by the City of Park Ridge Police Department thereby failing to meet the performance standards for both categories resulting in a three-day suspension, a copy of said dated correspondence of August 15, 1980 is marked as "Exhibit A" and attached to this Brief.

From the three-day suspension, the plaintiff appealed to the Board of Fire and Police Commissioners of the City of Park Ridge, Illinois.

After the hearing before the Board of Fire and Police Commissioners of the City of Park Ridge, Illinois, the Board sustained the three-day suspension by ruling that the plaintiff had not met the performance standards of the City of Park Ridge, Illinois concerning the issuance of the required daily traffic ticket citations covering the period from April 1, 1980 through June 30, 1980, that the plaintiff had not met the non-traffic performance standard covering the same period, and that the plaintiff had not demonstrated any mitigating circumstances sufficient to excuse his performance in conforming with the standards.

ISSUE PRESENTED

The issue is whether a traffic quota system violates public policy.

ARGUMENT

In analyzing the Transcript of Proceedings, the City of Park Ridge contended that its demand of its police officers to issue a certain amount of traffic ticket citations per day related to a traffic index score. (Tr. p. 32).

That the purpose of the traffic index score was to reduce injuries and deaths caused by automobile accidents. (Tr. p. 39, 40).

Nevertheless, in the presentation of its evidence, the City of Park Ridge admitted that its traffic index score did not minimize or decrease injuries, deaths or automobile accidents in Park Ridge, Illinois. (Tr. p. 41-44).

At the same time, the City of Park Ridge, in its testimony, admitted that the traffic index score is not the best way to measure the qualifications of a police officer. (Tr. p. 45).

In questioning Police Lieutenant George Tuene of the City of Park Ridge, Illinois Police Department, one of the two witnesses testifying for the City of Park Ridge, the Lieutenant admitted that the traffic index score of the City of Park Ridge is a traffic quota system which requires the issuance of a certain amount of traffic citation tickets per day. (Tr. p. 76-77).

In the presentation of the plaintiff's evidence, the plaintiff's evidence abundantly established that the traffic index score of the City of Park Ridge was indeed a traffic quota system. (Tr. p. 79, 84, 89, 98, 112, 113).

It is the contention of the plaintiff that the quota system is contrary to the public policy of the State of Illinois as reflected by the following quotation from *People* v. *Patterson,* 88 Ill. App. 3d 144, Page 146:

> "... an officer may also warn of a traffic violation or reprimand the driver without citing him ..."

In this instance, the traffic quota system of the City of Park Ridge neither reduced injuries, deaths or automobile accidents.

Likewise, the traffic quota system was not utilized in a minimal evaluation of the plaintiff as was suggested by Park Ridge Police Captain John Boudek, Commander of Field Operations Bureau of the City of Park Ridge Police Department. (Tr. p. 45).

On the contrary, the traffic quota system evaluation constitutes at least 40% to 90% of a City of Park Ridge evaluation of a police officer's ability. (Tr. p. 73, 81, 82, 92, 117).

Therefore, the decision of the Board of Fire and Police Commissioners of the City of Park Ridge is against the manifest weight of the evidence in that plaintiff did demonstrate mitigating circumstances to excuse his performance from observing traffic ticket quota system in that the traffic quota system is against public policy by requiring a police officer to issue daily a specific number of traffic citations without affording him the discretion to either write or not write those citations.

Furthermore, the decision of the Board of Fire and Police Commissioners of the City of Park Ridge is against the manifest weight of the evidence in that it does not promote the public welfare or safety, since injuries, deaths and automobile accidents have not been decreased by the establishment of the quota traffic system of the Park Ridge Police Department.

In addition, the public welfare or safety of Park Ridge is not being promoted by the traffic quota system in that questionable traffic violations result in the issuance of traffic tickets for the purpose of meeting a traffic quota system thereby depriving the Park Ridge police officer of his discretion to determine whether or not a violation in question justifiably deserves the issuance of a traffic ticket.

For reasons enumerated herein, the decision of the Board of Fire and Police Commissioners of the City of Park Ridge, Illinois is against the manifest weight of the evidence and is subject to reversal. *Sudduth* v. *Board of Fire and Police Commissioners of the City of Rockford,* 1964, 48 Ill App 2d 194; *Fantozzi* v. *Board of Fire and Police Commissioners of the Village of Villa Park,* 35 Ill App 2d 248 (1963); *Davern* v. *Civil Service Commission* (1970) 47 Ill 2d 469; *Oliver B. Christensen* v. *Board of Fire and Police Commissioners of the Village of Oak Forest,* 11 Ill App 3d 487 (1973); *Basketfield* v. *Police Board of the City of Chicago,* 56 Ill 2d 351 (1974); *Stanton* v. *Board of Fire and Police Commissioners of the Village of Bridgeview,* 37 Ill App 3d 108 (1976); *Brawka* v. *Board of Fire and Police*

Commissioners, 9 Ill App 3d 879 (1973); and *Chigaros* v. *Murphy*, 27 Ill App 3d 545 (1975).

/s/ STANLEY H. JAKALA
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